

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DAVID JESSE BROWN,

Plaintiff,

v.

WASHINGTON STATE UNIVERSITY,
DAVID SPROTT (in his official
and individual capacities),
CHERYL OLIVER (in her official
and individual capacities),
LAURA THOMLE (in her official
and individual capacities),
ASHLEY FAGERLIE (in her official
and individual capacities), EVAN
HURI (in his official and
individual capacities), CAITLIN
MACKAY (in her official and
individual capacities), JOHN DOE
STUDENT I, JOHN DOE STUDENT II,
JOHN DOE STUDENT III, JOHN DOE
STUDENT IV, JOHN DOE STUDENT V,
ROGER SANDBERG, CHRISTIAN
WUTHRICH (in his official and
individual capacities), LISA
MCINTYRE (in her official and
individual capacities), WAYNE
POPESKI (in his official and
individual capacities), SEAN
FALCON, JOSH HART, WASHINGTON
STATE UNIVERSITY APPEALS
COMMITTEE (IT IS CURRENTLY
UNKNOWN WHO THESE PERSONS ARE -
in their official and individual
capacities), EDWIN HAMADA (in
his official and individual
capacities), ANITA CORY (in her
official and individual
capacities), MELYNDA HUSKEY (in

NO. CV-11-0079-EFS

**ORDER DENYING AS MOOT
PLAINTIFF'S MOTION TO VACATE
ORDERS and REQUIRING NOTICE**

her official and individual capacities), MONTE GRIFFIN (in his official and individual capacities), JOSEPH JACKSON (in his official and individual capacities), DANIELLE HESS (in her official and individual capacities), HOWARD GRIMES (in his official and individual capacities), RALPH JENKS (in his official and individual capacities), and BILL GARDNER (in his official and individual capacities),

Defendants.

Before the Court is Plaintiff David Jesse Brown's Motion to Vacate Orders, ECF No. [14](#), which asks the Court to vacate its March 30, 2011 Order Granting and Denying with Leave to Renew in Part Plaintiff's Construed Motion to Appoint Counsel and to Extend Time for Service, ECF No. [10](#).¹ Vacating the prior Order is unnecessary; the Court understands that Plaintiff desires to proceed pro se and does not wish to have counsel appointed. The lawsuit will proceed accordingly.

Because Plaintiff is proceeding *in forma pauperis*, ECF No. [3](#), the Court has an obligation to screen Plaintiff's complaint² before ordering service of it. 28 U.S.C. § 1915A(a).³ Yet, following the filing of his

¹ Plaintiff noted the motion for hearing with oral argument. The Court determines oral argument is unwarranted. LR 7.1(h)(3)(b)(iv).

² The complaint to be screened is Plaintiff's April 14, 2011 amended complaint ("Complaint"), ECF No. [12](#).

³ Although §§ 1915 and 1915A reference "prisoners," they are not limited to prisoner suits. *United States v. Floyd*, 105 F.3d 274, 276

ORDER ~ 2

1 motion to vacate on April 19, 2011, Plaintiff filed a Motion to Stay
2 Proceedings, ECF No. [15](#). The Court is uncertain whether Plaintiff
3 desires to stay the proceeding before or after the Complaint is screened
4 (and, if appropriate, served). The Court is concerned that staying the
5 screening process may result in untimely service. *See Friedman v. Estate*
6 *of Presser*, 929 F.2d 1151, 1156-57 (6th Cir. 1991). However, this is
7 Plaintiff's lawsuit, and so the Court grants Plaintiff leave until June
8 15, 2011, to inform the Court as to how he wishes to proceed.

9 For the foregoing reasons, **IT IS HEREBY ORDERED:**

10 1. Plaintiff's Motion to Vacate Orders, ECF No. [14](#), is **DENIED AS**
11 **MOOT**.

12 2. No later than **June 15, 2011**, Plaintiff shall file a notice
13 advising whether he wishes the Court to rule on the Motion to Stay
14 Proceedings, ECF No. [15](#), before or after the Court screens the April 14,
15 2011 Complaint, ECF No. [12](#). If Plaintiff does not file the requested
16 notice by June 15, 2011, the Court will proceed to screen the Complaint.

17 **IT IS SO ORDERED.** The District Court Executive is directed to enter
18 this Order and provide copies to Plaintiff.

19 **DATED** this 18th day of May 2011.

20
21 s/Edward F. Shea

EDWARD F. SHEA

United States District Judge

22 Q:\Civil\2011\0079.vacate.status.wpd
23

24 _____
25 (6th Cir. 1997), *superseded on other grounds by Callihan v. Schenider*,
26 178 F.3d 800 (6th Cir. 1997). Therefore, a court must review a complaint
filed by any person proceeding in forma pauperis. *Id.*